

78-21394

10 JUL 1978

OLC #78-2616

MEMORANDUM FOR: Director, National Foreign Assessment Center
Director, National Intelligence Tasking Center
Deputy Director for Administration
Deputy Director for Operations
Deputy Director for Science and Technology
Comptroller
General Counsel
Inspector General
Legislative Counsel ✓
Administrative Officer, DCI

FROM: F. W. M. Janney ✓
Director of Personnel

SUBJECT: Consultant Status for Members of
Agency Advisory Panels/Committees

REFERENCE: (A) Memorandum OGC 78-1425, dated 8 March
1978, subject: Status of Agency Advisory
Panel Members as Consultants (attached)

(B) Memorandum, dated 26 May 1978, from DDA
to DCI, subject: Advisory Boards and
Committees Membership (attached)

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1. Referent A memorandum is an OGC opinion that members of Agency advisory panels should be uniformly processed as consultants in accordance with the standards and procedures set forth in [REDACTED]. Referent B memorandum advises the Director that for Fiscal Year 1979 all panel members will be formally processed as consultants for the Director's approval.

2. The purpose of this memorandum is to advise addressees of this requirement.

F. W. M. Janney

Att

Distribution:

Orig - D/NFAC

1 - Each additional addressee

1 - D/OS

MEMORANDUM FOR: Associate Director of Personnel

THROUGH: [REDACTED]

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FROM: [REDACTED]

SUBJECT:

Status of Agency Advisory Panel Members
as Consultants

1. This is in response to your note and a memorandum from the Chief, Contract Personnel Division dated 8 February 1978 which ask whether or not members of Agency advisory panels should be formally engaged as consultants and be processed accordingly under the provisions [REDACTED] It is my understanding that individuals who serve on these panels (with or without compensation) are private citizens whose detailed expertise in a given scientific or technological area provide the Agency on an intermittent basis with a valuable and otherwise unavailable resource to facilitate the analysis of intelligence data. The Chief, CPD, has advised that "[c]ertain of the members of the panels have a formal consultant relationship with the Agency as contained [REDACTED] Other members may be engaged on a one time-only basis or, on the other hand, may have a continuing relationship on a panel."

2. An example cited in the latter category [REDACTED] a member of the DCI's Scientific and Intelligence Committee Advisory Panel, who is to be paid a fee for each day's service equivalent to the top step of a GS-15 (currently \$180.88) and travel expenses. Evidently, unlike CIA consultants, persons [REDACTED] category are not currently retained under contract and are not required to formally file with the Agency Statements of Employment and Financial Interest (SEFI) so that their proposed use (as set forth in the requisite "certification of using official") can be reviewed by this Office for actual or apparent conflicts of interest. Instead, under existing procedures, the entity seeking the panel member apparently submits a "memorandum in lieu of contract" merely outlining the terms and duration of the proposed relationship for approval by the Special Contracting Officer, Office of Personnel.

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3. Based on the information before us, it must be concluded that panel members such [redacted] are "special Government employees" for conflicts of interest purposes as that term is defined at 18 U.S.C. 202 (i.e., an individual who is "retained, designated, appointed, or employed to perform, with or without compensation, for not to exceed one hundred and thirty days during any period of three hundred and sixty-five consecutive days, temporary duties either on a full-time or intermittent basis....") As you know, under law and executive order, there are responsibilities imposed on both a "special Government employee" and the Federal agency retaining his or her services to insure that such an individual is not placed in a position of having an actual or apparent conflict of interest between the individual's Government activities and private pursuits. In acknowledgement of these requirements governing "special Government employees", [redacted] imposes detailed and formal procedures as outlined in the previous paragraph for the processing and clearance of all CIA consultants from a conflict of interest standpoint.

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4. Accordingly, in light of their status as "special Government employees," we see no reason at the present time why Agency panel members [redacted] can and should be considered and treated any differently from other CIA consultants. This conclusion appears to be buttressed by the fact that, according [redacted] memorandum, at least some of the individuals currently serving on Agency advisory panels are already being retained under a formal consultant arrangement with CIA. We do believe, therefore, that henceforth all members of Agency advisory panels should be uniformly processed in accordance with standards and procedures set forth [redacted]

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8 February 1978

MEMORANDUM FOR: Chief, Operations and Management Law Division, OGC

ATTENTION

FROM

[REDACTED]

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SUBJECT : Panel Members

Chief, Contract Personnel Division

1. As you are aware, the Agency, in addition to its "consultants" engaged under a formal contract, has in the past and currently has certain advisory panels. Certain of the members of the panels have a formal consultant relationship with the Agency as contained [REDACTED] Other members STAT may be engaged under a Memorandum of Oral Commitment (MOC) on a one-time only basis or, on the other hand, may have a continuing membership in the panel. A latter case in point is that [REDACTED] a member of the STAT DCI's Scientific and Intelligence Committee Advisory Panel. Attachment A is a copy of the memorandum concerning his utilization submitted by the Executive Secretary of that committee. (I have verified with the Office of Security that [REDACTED] holds an Agency TS clearance).

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2. The matter of panel members as it relates to the Nuclear Intelligence Panel was addressed [REDACTED] in OGC Memorandum 75-4776, dated 23 December 1975 (attachment B). Other historical background on the use of panel members is contained in attachment C.

3. For future guidance, I would appreciate your views on the following questions:

a. Should panel members be formally engaged as consultants and be processed accordingly under the provisions [REDACTED] STAT

b. If an individual can be used as a panel member without formal consultant status, is there any objection to the Special Contracting Officer's approval of their use by the mechanism of an MOC? Specifically in this regard, could you comment on the use [REDACTED] as outlined in attachment A? Is STAT each panel member required to submit a financial statement for clearance by OGC for conflict of interest? (See attachment D).

Attachments:

A through D as stated

26 MAY 1978

MEMORANDUM FOR: Director of Central Intelligence
VIA: Deputy Director of Central Intelligence
FROM: John F. Blake
Deputy Director for Administration
SUBJECT: Advisory Boards and Committees Membership
REFERENCE: Your memorandum of 19 May 1978 (attached)

1. Action Required: None; for information only.

2. Background:

a. In referent memoranda you asked whether there was any regulatory provision limiting the length of time an individual can serve as a member of an advisory board or committee. The answer is no.

b. Many of the members are formally engaged as Agency consultants. As consultants, the Director must approve each year their continued use for the following fiscal year.

c. In response to our request in February of this year as to whether all panel advisory members must be formally engaged as consultants, the General Counsel advised that all should be formally engaged as consultants. Thus, for the forthcoming fiscal year all panel members will be formally processed as consultants for the Director's approval.

/s/ John F. Blake

John F. Blake

Distribution:

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1 - DDCI
1 - ER
2 - DDA
2 - D/Pers
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Originator:

Director of Personnel

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